

CHAPTER 840  
RAIL RATE REGULATION

**761—840.1(327C,327D) Regulation of freight rates.**

**840.1(1)** The department shall regulate the rates for intrastate transportation of freight by rail in accordance with:

- a.* Iowa Code chapters 327C and 327D.
- b.* The Interstate Commerce Act and the Staggers Rail Act of 1980.
- c.* The publication entitled "Intrastate Rail Rate Regulation in Iowa," dated June 1990 (hereinafter referred to as the "rail rate publication").

**840.1(2)** Persons affected include railroads providing intrastate freight service by rail in Iowa and any party who believes that a law pertaining to this service has been violated.

**840.1(3)** Areas regulated include individual and joint rates (fares, tariffs, tolls, charges, surcharges, e.g.) and contracts between railroads and shippers. The term "rate" as defined in Iowa Code subsection 327D.2(7) includes all classifications, rules and practices relating to the rate.

**840.1(4)** The rail rate publication sets criteria for determining the reasonableness of rates, provides procedural rules for filing protests and complaints, establishes time limits for completing rate proceedings, and provides exemption from regulation for certain commodities and services.

**840.1(5)** Following is a brief outline of some of the more pertinent provisions contained in the rail rate publication. This outline shall not be used as a substitute for the publication. Its purpose is simply to familiarize an interested party with the basics of rail rate regulation in Iowa.

- a.* The department has no jurisdiction over general rate increases, inflation-based rate increases, or fuel adjustment surcharges.
- b.* The department does not require prior justification of rate increases.
- c.* The timing for rate changes is the same as for any change lawfully filed with the Interstate Commerce Commission.
- d.* A rail carrier not earning adequate revenues may raise a rate within the zone of rate flexibility provisions of 49 U.S.C. 10707a.
- e.* Exemptions from rate regulation granted by the Interstate Commerce Commission are also granted by the department.
- f.* When a new rate over which the department has jurisdiction is filed with the Interstate Commerce Commission, the department may:
  - (1) Upon its own motion, commence an investigation proceeding.
  - (2) Upon the protest of an interested party, commence an investigation proceeding.
  - (3) Upon the protest of an interested party, commence an investigation and suspension proceeding.
- g.* The department may suspend a proposed rate only if the change is protested and the protestant meets certain burdens of proof. The department shall not suspend on its own motion.
- h.* When investigating a new rate, the department shall first determine whether or not the railroad has market dominance over the traffic to which the rate applies.
  - (1) A finding that no market dominance exists is conclusive evidence that a rate is reasonable, and the department has no further jurisdiction over that rate.
  - (2) The department shall evaluate the reasonableness of a rate only after a finding that market dominance exists.
- i.* The department shall not make a finding of discrimination if differences in rates, classifications, rules or practices result from differences in services provided.
- j.* Protests against a proposed rate are processed as follows:
  - (1) A protest must be received by the department at least ten days prior to the effective date of the proposed change.

(2) If a protest was served on a respondent at least 20 days prior to the effective date of the proposed change, the respondent's reply to the protest must be received by the department at least four working days prior to the effective date.

(3) If a protest was served on a respondent at least 10 but less than 20 days prior to the effective date of the proposed change, the respondent's reply to the protest must be received by the department at least two working days prior to the effective date.

(4) An original and two copies of a protest, reply or other pleading shall be filed with the department, accompanied by a certificate of service showing simultaneous service upon all other known parties to the proceeding.

(5) A party filing a protest, reply or other pleading with the department shall serve one copy each upon all other known parties to the proceeding.

*k.* Within 30 days after the filing date of a contract between a railroad and a shipper, the department may, on its own motion or upon complaint, commence a proceeding to review it. Complaints against a contract are processed as follows:

(1) A complaint must be received by the department within 18 days after the filing date of the contract.

(2) A respondent railroad's reply to a complaint must be received by the department within 23 days after the filing date of the contract.

(3) An original and two copies of a complaint or reply shall be filed with the department, accompanied by a certificate of service showing simultaneous service upon the parties specified in subparagraph (4).

(4) A complainant shall serve one copy of the complaint upon each railroad participating in the contract. A respondent railroad shall serve one copy of the reply upon the complainant.

*l.* Formal complaints against the reasonableness of rates are processed as follows:

(1) A complaint shall be filed with the department. An original and two copies for departmental use, plus a sufficient number of copies to enable the department to serve one copy upon each defendant, shall be filed.

(2) A respondent's answer to a complaint shall be filed with the department and must be received by the department within 20 days after the date the complaint was served upon the respondent. An original and two copies shall be filed, accompanied by a certificate showing simultaneous service upon the complainant and all other known parties to the proceeding. The respondent shall serve one copy of the answer upon the complainant and one copy each upon all other known parties to the proceeding.

**840.1(6)** Documents filed with the department under this chapter shall be addressed to: Operations Section, Rail and Water Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

*a.* The date documents are received by the department is considered the filing date.

*b.* Copies of the rail rate publication are available from this address.

This rule is intended to implement Iowa Code chapters 327C and 327D.

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